



May 13, 2011

Ms. Terry Maccaulay
Deputy Executive Officer
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Submitted via email: deltaplancomment@deltacouncil.ca.gov

Re: Delta Plan, Third Staff Draft

Dear Ms. Maccaulay:

The Delta Caucus appreciates the opportunity to comment on the Delta Plan, Third Staff Draft. As with our comments on the Second Staff Draft, members of the Delta Caucus rely heavily on the requirement that the Delta Plan provides a “more reliable water supply for California and restoring and enhancing the Delta ecosystem and does this in a manner that protects and enhances the unique cultural, recreational, natural resources, and agricultural values of the Delta as an evolving place (Water Code Section #85054).” In order to protect and enhance agricultural values of the Delta as an evolving place, the Delta Plan must clearly provide for the following:

- Land
- Good quality water
- Flood control and drainage
- Flexibility to change as conditions and markets change

The text of the Delta Plan and all policies to advance the co-equal goals should be developed and implemented in a manner that values, protects, enhances, and allows Delta agriculture to adapt to changes over time.

We acknowledge the changes that have been made to the Second Staff Draft and offer the following comments and suggestions regarding the Third Staff Draft:

1. **Page 10, Lines 42-44:** While the cost of maintaining some levees may be more than the value of the land use, maintenance costs must be evaluated using all benefits levees

provide and all resources and values they protect. Levees protect important infrastructure to include water exported from the Delta by the SWP and CVP.

2. **Page 37, Line 23:** The exclusion for reclamation districts should be expanded from levee maintenance to include other routine activities. On **Page 15, Lines 14 and 15**, the exclusion reads "...local public agency routine maintenance or operation of any facility in the Delta (Water Code Section 85057 (b)). This exclusion from the definition of covered action would be more appropriate and should replace **Page 37, Line 23**.
3. **Page 66, Lines 18-32:** Delta agriculture land already provides ecosystem benefits. Policies that build upon those benefits using incentive-based programs should be developed. The result will improve ecosystem values and protect and enhance Delta agriculture.
4. **Page 67, Lines 8-16:** Policy ER P3 could result in restrictions on agriculture throughout the entire Delta; and therefore, is inconsistent with achieving the co-equal goals in a manner that protects and enhances Delta agriculture values. Even though ER R1 (**Lines 39-44**) on the same page seems to focus the area being considered for ecosystem restoration to the Yolo Bypass, Cache Slough Complex, and Lower San Joaquin River Floodplain, ER P3 applies to the entire Delta. This policy should apply first to publicly owned lands. If there is a need to go beyond publicly owned lands, the area should be defined as narrowly as possible, and incentive based programs should be offered to willing landowners to compensate for any restrictions place on their land.
5. **Page 67, Lines 17-30:** Policy ER P4 could also result in restricting agriculture in most of the Delta. Because FEMA is in the process of decertifying levees in the Delta, areas which have not been considered to be floodplain may be reclassified resulting in broad restrictions on agricultural crops, practices, and infrastructure. If the intent is to protect potential future bypass and floodway options, the policy should be applied first to publicly owned lands and then to narrowly defined areas with incentives provided to offset potential restrictions. Text on **Page 35, Lines 28-32** should be changed to reflect changes to this policy.
6. **Page 79 and 80:** In the discussion of salinity and water quality and the development of policy to protect water quality, the Plan should consider the role levees play in maintaining adequate quality for export and in Delta uses.
7. **Page 89, Line 2:** Comments relative to RR P1 refer to item #5 above.
8. **Page 89, Lines 6-20:** Until potential floodplains outside of areas where existing floodplain easements exist are identified, and easements secured (compensating landowners for restrictions), it is inappropriate to limit agricultural activities to include planting permanent crops and building infrastructure to support agricultural operations. Policy RR P3 is inconsistent with protecting and enhancing Delta agriculture. If the

problem as stated on **Page 88, Lines 33-34** is development in potential floodplains, then restrictions should be directed to development and not to all uses.

9. **Page 90, Lines 7-9:** Levee classifications should not be limited to an acceptable risk for the types of land use located behind the levee, classification should include all values and resources protected to include water quality and infrastructure of statewide importance.

The Delta Caucus understands the need for the coequal goals but remains concerned that:

- The protection and enhancement of Delta agriculture is not adequately addressed nor are policies analyzed to determine if they will adversely and negatively impact Delta agriculture.
- The cost of determining covered action consistency will negatively impact Delta agriculture's ability to successfully adapt to changing conditions.
- The cost to develop and implement the plan will partially be borne by Delta agriculture and the costs will not be offset by the Plans' benefits.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, reading "Russell van Löben Sels". The signature is written in a cursive, flowing style.

Russell E. van Löben Sels

Chairman